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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5 **SAN JOSE DIVISION**
6

7 FINJAN, INC.,

8 Plaintiff,

9 v.

10 BLUE COAT SYSTEMS, LLC,

11 Defendant.

Case No. 15-cv-03295-BLF

**OMNIBUS ORDER RE:
ADMINISTRATIVE MOTIONS TO
SEAL DOCUMENTS**

[Re: ECF 226, 227]

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13 Before the Court are two administrative motions to file under seal, one from Plaintiff
14 Finjan, Inc. (“Finjan”) and one from Defendant Blue Coat Systems, LLC (“Blue Coat”). ECF
15 226, 227. Both relate to the opening briefing on the parties’ cross-motions for summary judgment.
16 *See id.* For the reasons set forth below, Blue Coat’s motion (ECF 226) is GRANTED and Finjan’s
17 motion (ECF 227) is GRANTED IN PART and DENIED IN PART.

18 **I. LEGAL STANDARD**

19 “Historically, courts have recognized a ‘general right to inspect and copy public records
20 and documents, including judicial records and documents.’” *Kamakana v. City & Cnty. of*
21 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435
22 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are
23 “more than tangentially related to the merits of a case” may be sealed only upon a showing of
24 “compelling reasons” for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,
25 1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed
26 upon a lesser showing of “good cause.” *Id.* at 1097. In addition, sealing motions filed in this
27 district must be “narrowly tailored to seek sealing only of sealable material.” Civil L.R. 79-5(b).
28 A party moving to seal a document in whole or in part must file a declaration establishing that the

identified material is “sealable.” Civ. L.R. 79-5(d)(1)(A). “Reference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient to establish that a document, or portions thereof, are sealable.” *Id.*

II. DISCUSSION

The Court has reviewed the parties’ sealing motions and the declarations submitted in support thereof. The Court finds that the parties have articulated compelling reasons and good cause to seal certain portions of the submitted documents. The proposed redactions are also narrowly tailored. The Court’s rulings on the sealing requests are set forth in the tables below:

A. ECF 226

<u>ECF No.</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reasoning</u>
226-4	Ex. 2 to Marder Declaration in Support of Blue Coat’s Motion for Summary Judgment, ECF 225 (“Marder Decl.”)	GRANTED as to highlighted portions.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof, including reference to portions of Blue Coat’s source code. Declaration of Eugene Marder in Support of Administrative Motion to File Under Seal, ECF 226-1 (“Marder Blue Coat Sealing Decl.”) ¶ 6.
226-6	Ex. 3 to Marder Decl.	GRANTED as to highlighted portions.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof, including reference to portions of Blue Coat’s source code. Marder Blue Coat Sealing Decl. ¶ 7.
226-8	Ex. 9 to Marder Decl.	GRANTED.	Entirely comprised of Blue Coat source code. Marder Blue Coat Sealing Decl. ¶ 8.
226-10	Ex. 10 to Marder Decl.	GRANTED.	Entirely comprised of Blue Coat source code. Marder Blue Coat Sealing Decl. ¶ 9.
226-12	Ex. 11 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 10.
226-14	Ex. 13 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 11.

1	226-16	Ex. 16 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 12.
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4	226-18	Ex. 17 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 13.
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7	226-20	Ex. 18 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 14.
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10	226-22	Ex. 19 to Marder Decl.	GRANTED as to highlighted portions.	Contains highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 15.
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12	226-24	Ex. 21 to Marder Decl.	GRANTED as to highlighted portions.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 16.
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15	226-26	Ex. 24 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 17.
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18	226-28	Ex. 25 to Marder Decl.	GRANTED.	Entirely comprised of Blue Coat source code. Marder Blue Coat Sealing Decl. ¶ 18.
19	226-30	Ex. 26 to Marder Decl.	GRANTED.	Entirely comprised of Blue Coat source code. Marder Blue Coat Sealing Decl. ¶ 19.
20	226-32	Ex. 27 to Marder Decl.	GRANTED.	Entirely comprised of Blue Coat source code. Marder Blue Coat Sealing Decl. ¶ 20.
21	226-34	Ex. 28 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 21.
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24	226-36	Ex. 29 to Marder Decl.	GRANTED.	Entirely comprised of Blue Coat source code. Marder Blue Coat Sealing Decl. ¶ 22.
25	226-38	Ex. 30 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 23.
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226-40	Ex. 31 to Marder Decl.	GRANTED.	Entirely comprised of Blue Coat source code. Marder Blue Coat Sealing Decl. ¶ 24.
226-42	Ex. 33 to Marder Decl.	GRANTED as to highlighted portions.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 25.
226-44	Ex. 34 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 26.
226-46	Ex. 35 to Marder Decl.	GRANTED.	Entirely comprised of Blue Coat source code. Marder Blue Coat Sealing Decl. ¶ 27.
226-48	Ex. 36 to Marder Decl.	GRANTED.	Reflects highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 28.

B. ECF 227

<u>ECF No.</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reasoning</u>
227-4	Finjan's Motion for Summary Judgment	GRANTED as to highlighted portions.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealing Decl.") ¶ 6.
227-6	Ex. 26 to Caire Declaration in Support of Finjan's Motion for Summary Judgment, ECF 229 ("Caire Decl.")	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 7.
227-8	Ex. 27 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 8.
227-10	Ex. 28 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 9.

1	227-12	Ex. 29 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 10.
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3	227-14	Ex. 30 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 11.
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5	227-16	Ex. 31 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 12.
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7	227-18	Ex. 33 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 13.
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10	227-20	Ex. 34 to Caire Declaration	GRANTED.	Consists entirely of Blue Coat source code. Marder Finjan Sealing Decl. ¶ 14.
11	227-22	Ex. 36 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 15.
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13	227-24	Ex. 39 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 16.
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16	227-26	Ex. 41 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 17.
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18	227-28	Ex. 42 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 18.
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20	227-30	Ex. 43 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 19.
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23	227-32	Ex. 44 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 20.
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25	227-34	Ex. 45 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 21.
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227-36	Ex. 48 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 22.
227-38	Ex. 50 to Caire Declaration	DENIED.	No declaration has been submitted in support of sealing. <i>See</i> Declaration of James Hannah in Support of this Administrative Motion ("Hannah Decl.") ¶ 21, ECF 227-1; Marder Finjan Sealing Decl. ¶ 23.

III. ORDER

For the foregoing reasons, Blue Coat's sealing motion (ECF 226) is GRANTED and Finjan's sealing motion (ECF 227) is GRANTED IN PART and DENIED IN PART. Under Civil Local Rule 79-5(e)(2), for any request that has been denied because the party designating a document as confidential or subject to a protective order has not provided sufficient reasons to seal, the submitting party must file the unredacted (or lesser redacted) documents into the public record no earlier than 4 days and no later than 10 days from the filing of this order.

IT IS SO ORDERED.

Dated: May 30, 2017


BETH LABSON FREEMAN
United States District Judge